



***Substitute Senate Bill No. 1207***

***Public Act No. 05-93***

***AN ACT CONCERNING THE CAPITAL EXPENDITURE  
THRESHOLD FOR THE REGULATION OF EQUIPMENT  
ACQUISITIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (4) of subsection (a) of section 19a-638 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(4) [Each] Except as provided in sections 19a-639a to 19a-639c, inclusive, as amended by this act, each applicant, prior to submitting a certificate of need application under this section, section 19a-639, as amended by this act, or under both sections, shall submit a request, in writing, for application forms and instructions to the office. The request shall be known as a letter of intent. A letter of intent shall include: (A) The name of the applicant or applicants; (B) a statement indicating whether the application is for (i) a new, replacement or additional facility, service or function, (ii) the expansion or relocation of an existing facility, service or function, (iii) a change in ownership or control, (iv) a termination of a service or a reduction in total bed capacity and the bed type, (v) any new or additional beds and their type, (vi) a capital expenditure over one million dollars, (vii) the [acquisition] purchase, lease or donation acceptance of major medical

**Substitute Senate Bill No. 1207**

equipment [, imaging equipment or a linear accelerator costing over four hundred thousand dollars] costing over four hundred thousand dollars, (viii) a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment, a linear accelerator or other similar equipment utilizing technology that is new or being introduced into the state, or (ix) any combination thereof; (C) the estimated capital cost, value or expenditure; (D) the town where the project is or will be located; and (E) a brief description of the proposed project. The office shall provide public notice of any complete letter of intent submitted under this section, section 19a-639, as amended by this act, or both, by publication in a newspaper having a substantial circulation in the area served or to be served by the applicant. Such notice shall be submitted for publication not later than fifteen business days after a determination that a letter of intent is complete. No certificate of need application will be considered submitted to the office unless a current letter of intent, specific to the proposal and in compliance with this subsection, has been on file with the office at least sixty days. A current letter of intent is a letter of intent [which] that has been on file at the office up to and including one hundred twenty days, except that an applicant may request a one-time extension of a letter of intent of up to an additional thirty days for a maximum total of up to one hundred fifty days if, prior to the expiration of the current letter of intent, the office receives a written request to so extend the letter of intent's current status. The extension request shall fully explain why an extension is requested. The office shall accept or reject the extension request [within] not later than five business days from the date it receives such request and shall so notify the applicant.

Sec. 2. Subsection (a) of section 19a-639 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) Except as provided in sections 19a-639a to 19a-639c, inclusive, as

***Substitute Senate Bill No. 1207***

amended by this act, each health care facility or institution, including, but not limited to, any inpatient rehabilitation facility, any health care facility or institution or any state health care facility or institution proposing (1) a capital expenditure exceeding one million dollars, [or the acquisition] (2) to purchase, lease or accept donation of major medical equipment requiring a capital expenditure, as defined in regulations adopted pursuant to section 19a-643, in excess of four hundred thousand dollars, or (3) to purchase, lease or accept donation of a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment, a linear accelerator or other similar equipment utilizing technology that is new or being introduced into this state, including the [leasing] purchase, lease or donation of equipment or a facility, shall submit a request for approval of such expenditure to the office, with such data, information and plans as the office requires in advance of the proposed initiation date of such project.

Sec. 3. Subdivision (3) of subsection (b) of section 19a-639 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(3) The office shall comply with the public notice provisions of subdivision (4) of subsection (a) of section 19a-638, as amended by this act, and shall hold a public hearing with respect to any complete certificate of need application filed under this section, if: (A) The proposal has associated total capital expenditures or total capital costs that exceed twenty million dollars for land, building or nonclinical equipment acquisition, new building construction or building renovation; [or] (B) the proposal has associated total capital expenditures per unit or total capital costs per unit that exceed one million dollars for the purchase, lease or donation acceptance of major medical equipment; [, imaging equipment or] (C) the proposal is for the purchase, lease or donation acceptance of equipment utilizing

**Substitute Senate Bill No. 1207**

technology that is new or being introduced into the state, including scanning equipment, cineangiography equipment, a linear accelerator [.] or other similar equipment; [utilizing technology that is new or being introduced into the state] or [(C)] (D) three individuals or an individual representing an entity comprised of five or more people submit a request, in writing, that a public hearing be held on the proposal. At least two weeks' notice of such public hearing shall be given to the applicant, in writing, and to the public by publication in a newspaper having a substantial circulation in the area served by the applicant. At the discretion of the office, such hearing shall be held in Hartford or in the area so served or to be served.

Sec. 4. Subsection (c) of section 19a-639 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(c) [Notwithstanding section 19a-639a or 19a-639b, each] Each person or [facility] provider, other than a health care or state health care facility or institution subject to subsection (a) of this section, proposing to [acquire] purchase, lease, accept donation of or replace [imaging equipment or a linear accelerator, requiring a capital expenditure, as defined in regulations adopted pursuant to section 19a-643, in excess of four hundred thousand dollars, including the leasing or donation of such equipment and facility and including all capital expenditures, as defined in regulations adopted pursuant to said section, associated with the provision of the imaging service or operation of a linear accelerator] (1) major medical equipment with a capital expenditure in excess of four hundred thousand dollars, or (2) a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment, linear accelerator or other similar equipment utilizing technology that is new or being introduced into the state, shall submit a request for approval of any such [imaging equipment or linear accelerator acquisition] purchase, lease, donation

**Substitute Senate Bill No. 1207**

or replacement pursuant to the provisions of subsection (a) of this section. In determining the capital cost or expenditure for an application under this section or section 19a-638, as amended by this act, the office shall use the greater of [(1)] (A) the fair market value of the equipment as if it were to be used for full-time operation, whether or not the equipment is to be used, shared or rented on a part-time basis, or [(2)] (B) the total value or estimated value determined by the office of any capitalized lease computed for a three-year period. Each method shall include the costs of any service or financing agreements plus any other cost components or items the office specifies in regulations, adopted in accordance with chapter 54, or deems appropriate.

Sec. 5. Section 19a-639a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) Except as provided in subsection (c) of section 19a-639, as amended by this act, or as required in subsection (b) of this section, the provisions of section 19a-638, as amended by this act, and subsection (a) of section 19a-639, as amended by this act, shall not apply to: (1) An outpatient clinic or program operated exclusively by, or contracted to be operated exclusively for, a municipality or municipal agency, a health district, as defined in section 19a-240, or a board of education; (2) a residential facility for the mentally retarded licensed pursuant to section 17a-227 and certified to participate in the Title XIX Medicaid program as an intermediate care facility for the mentally retarded; (3) an outpatient rehabilitation service agency that was in operation on January 1, 1998, that is operated exclusively on an outpatient basis and that is eligible to receive reimbursement under section 17b-243; (4) a clinical laboratory; (5) an assisted living services agency; (6) an outpatient service offering chronic dialysis; (7) a program of ambulatory services established and conducted by a health maintenance organization; (8) a home health agency; (9) a clinic

***Substitute Senate Bill No. 1207***

operated by the Americares Foundation; (10) a nursing home; or (11) a rest home. [However, the] The exemptions provided in this section shall not apply when a nursing home or rest home is, or will be created, acquired, operated or in any other way related to or affiliated with, or under the complete or partial ownership or control of a facility or institution or affiliate subject to the provisions of section 19a-638, as amended by this act, or subsection (a) of section 19a-639, as amended by this act.

(b) Each health care facility or institution exempted under this section shall register with the office by filing the information required by subdivision (4) of subsection (a) of section 19a-638, as amended by this act, for a letter of intent at least ten business days but not more than sixty calendar days prior to commencing operations and prior to changing, expanding, terminating or relocating any facility or service otherwise covered by section 19a-638, as amended by this act, or subsection (a) of section 19a-639, as amended by this act, or covered by both sections or subsections, except that, if the facility or institution is in operation on June 5, 1998, said information shall be filed not more than sixty days after said date. Not later than ten business days after the office receives a completed filing required under this subsection, the office shall provide the health care facility or institution with written acknowledgment of receipt. Such acknowledgment shall constitute permission to operate or change, expand, terminate or relocate such a facility or institution or to make an expenditure consistent with an authorization received under subsection (a) of section 19a-639, as amended by this act, until the next September thirtieth. Each entity exempted under this section shall renew its exemption annually by filing current information each September.

(c) Each health care facility, institution or provider that proposes to purchase, lease or accept donation of a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment or a linear

***Substitute Senate Bill No. 1207***

accelerator shall be exempt from certificate of need review pursuant to sections 19a-638 and 19a-639, as amended by this act, if such facility, institution or provider (1) provides to the office satisfactory evidence that it purchased or leased such equipment for under four hundred thousand dollars on or before July 1, 2005, or (2) obtained, on or before July 1, 2005, from the office, a certificate of need or a determination that a certificate of need was not required for the purchase, lease or donation acceptance of such equipment.

Sec. 6. Section 19a-639c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

Notwithstanding the provisions of section 19a-638, as amended by this act, or section 19a-639, as amended by this act, the office may waive the requirements of those sections and grant a certificate of need to any health care facility [ ] or institution or provider or any state health care facility [ ] or institution or provider proposing to replace major medical equipment, [imaging equipment] a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment or a linear accelerator if:

(1) The health care facility [ ] or institution or provider has previously obtained a certificate of need for the equipment [or accelerator being] to be replaced;

(2) The replacement value or expenditure for the replacement equipment [or accelerator] is not more than the original cost plus an increase of ten per cent for each twelve-month period that has elapsed since the date of the original certificate of need; and

(3) The replacement value or expenditure is less than two million dollars.

Approved June 7, 2005